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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION
OF ROCKY MOUNTAIN POWER
REQUESTING APPROVAL OF \$62.4
MILLION ECAM DEFERRAL

CASE NO. PAC-E-24-05

COMMENTS OF BAYER

P4 Production, L.L.C., an affiliate of Bayer Corporation (referred to herein as “Bayer”), through counsel, submits these comments regarding the April 1, 2024, Application of Rocky Mountain Power (the “Company”) requesting approval of approximately \$62.4 million of deferred costs under the Company’s approved energy costs adjustment mechanism (“ECAM”). These comments are submitted pursuant to the Commission’s Order No. 36153 issued April 23, 2024, giving notice of the Application, giving notice that this matter will proceed under Modified Procedure, and inviting written comments by May 14, 2024. Bayer filed a petition to intervene in this matter on April 11, 2024, which was granted by the Commission’s Order No. 36161 issued May 1, 2024.

Introduction

Bayer owns and operates a plant in Soda Springs, Idaho, that utilizes three electric furnaces to produce elemental phosphorus. Bayer’s Soda Springs’ plant is the largest single user of electricity in Idaho, and the largest single user of electricity on the PacifiCorp system. Bayer and its predecessor in interest have continuously been a contract customer of the Company since the Soda Spring plant commenced operations in 1951.

The Company provides electric service to Bayer pursuant to an Electric Service Agreement effective January 1, 2022 (“Agreement”). Under the Agreement, Bayer receives both firm and interruptible power. While Bayer’s rates are fixed pursuant to the Agreement, they remain subject to annual ECAM adjustments like all other Idaho customers.

Bayer's Comments

Bayer objects to two particular costs that the Company requests be included in the ECAM for recovery from customers, namely (1) recovery of costs associated with allowance purchases for the Washington Climate Commitment Act (“CCA”), and (2) costs to comply with the Ozone Transport Rule (“OTR”).

The CCA was passed by the Washington State Legislature in July 2021. The CCA requires that the Company purchase Greenhouse Gas (“GHG”) allowances for any GHG emissions-output within the state of Washington for export outside the state of Washington. The only source of GHG emitting plants in the Company’s portfolio is the 477 MW Chehalis gas-fired plant. During the ECAM period (January 1, 2023- December 31, 2023), the Company made \$42 million in allowance purchases. Bayer is opposed to the inclusion of this state specific compliance cost for recovery from Idaho’s ratepayers. These costs are the result of state-specific actions and should be assigned to the state where these costs have been approved. Notably, the allowance costs are not applicable to any generation that is internal to the need of Washington ratepayers. In other words, ratepayers in the state of Washington are exempt from paying for any allowances.

The Wyoming Public Service Commission determined that the allowance costs from Washington’s Cap and Investment Program (“WC&IP”) should not be recovered from Wyoming’s ratepayers. The Wyoming Public Service Commission made the following finding in its Memorandum Opinion, Findings and Order issued January 2, 2024:

211. The Commission concludes RMP shall not recover any costs associated with the WC&IP in any rates charged to Wyoming customers. The Commission rejects the Company’s argument that these costs are analogous to the Wyoming wind tax and therefore, subject to allocation to all states under the 2020 Protocol. The Commission is persuaded by the intervening parties’ argument, as well as its own interpretation of the 2020 Protocol, that the WC&IP is a “State-Specific Initiative.” If the WC&IP is akin to any concept in the 2020 Protocol, it is akin to a renewable portfolio standard since the explicit legislative objective of the WC&IP is to reduce the use of fossil fuel generation. There is no dispute that a resource procurement standard is situs under the 2020 Protocol. Indeed, the character of the WC&IP clearly indicates it is not a tax. Specifically, the rate of GHG allowances is not set by the Washington Legislature; they are set at an auction. Finally, the Washington consumers do not pay for the GHG allowances. As such, the WC&IP is appropriately situs-assigned to Washington. (Docket No.

The Public Utility Commission of Oregon has also disallowed recovery of the CCA costs reasoning that the costs are a state-specific initiative that is properly allocated to Washington. (Direct Testimony of Ramon J. Mitchell, Oregon PUC Docket No. UE 434, page 26.)

The OTR is the Environmental Protection Agency's ("EPA") finalized federal plan on nitrogen oxides ("NOx") emission limits for 23 states, including Utah and Wyoming. The NOx limits apply during the ozone season which spans May 1st to September 30th. The final rule was published in the Federal Register on June 5, 2023 with an effective date of August 4, 2023. On June 20, 2023, the Utah Attorney General filed a lawsuit against the EPA, seeking to overturn the OTR. Shortly thereafter, the U.S. Court of Appeals for the Tenth Circuit granted a stay of the EPA federal plan. In its Application, the Company is seeking recovery of approximately \$17 million for the OTR. Bayer is opposed to recovery of any expenses that are not required to meet the requirements of the OTR. These costs are not related to any operational condition that has been in effect for addressing NOx emissions. This disallowance is a risk that should be borne by the shareholders of RMP, not the ratepayers of Idaho.

Furthermore, in the Company's electric rate case in Wyoming, Record No. 17252, RMP voluntarily removed costs associated with the OTR from its net power cost adjustment.

Based on the foregoing, Bayer respectfully requests that the Commission deny recovery of costs for compliance with the CCA and the costs associated with the OTR. These costs should not be charged to the RMP Idaho ratepayers.

DATED this 13th day of May, 2024.

RACINE OLSON, PLLP

By: 
THOMAS J. BUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 13th day of May, 2024, I served a true, correct and complete copy of the foregoing document, to each of the following, via the method so indicated:

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